

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ABELARDO SOTO,

Plaintiff,

No. CIV S-05-0871 EFB P

vs.

DR. NADIUM KHOURY, et al.,

ORDER

Defendants.

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

On September 14, 2006, plaintiff filed a request for subpoenas to obtain testimony or production of documents from seven defendants. Plaintiff does not allege that he is unable to obtain statements and documents from the witnesses voluntarily, and therefore has not shown cause why subpoenas should issue. Plaintiff's request is therefore denied.

On May 31, 2006, plaintiff's request for a 120-day extension of time for all dates set by the scheduling order filed January 13, 2006, was granted. Plaintiff had previously made discovery requests to defendants, seeking answers to interrogatories and production of documents. Defendants correctly deemed those requests untimely, however, the extension of

1 time extended all dates. On July 13, 2006, and July 19, 2006, plaintiff filed two motions to
2 compel, seeking the aforementioned discovery. Defendants filed an opposition to plaintiff's
3 motions which was supported by a separately filed declaration stating that the requested
4 discovery had been furnished to plaintiff, with the exception of documents no longer in
5 defendants' control. The latter documents are plaintiff's medical records that followed him in
6 his transfer to Corcoran State Prison. Defendants further represent that they have, through
7 counsel, requested those documents in order to provide further responses to plaintiff's
8 interrogatories. Good cause appearing, plaintiff's motions to compel are denied without
9 prejudice.

10 On November 27, 2006, plaintiff filed two additional motions to compel and for
11 sanctions. Defendants' opposition argues that plaintiff's requests were untimely. They were
12 served on or about August 27, 2006, with a discovery cut-off date of September 8, 2006.
13 Regardless, defendants requested extensions of time in which to comply with these late requests,
14 which were granted by court order filed September 28, 2006. Defendants have since served
15 responses to plaintiff's requests. Good cause appearing, plaintiff's motions to compel and for
16 sanctions are denied.

17 In accordance with the above, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's September 14, 2006, request for subpoenas is denied;
19 2. Plaintiffs motions to compel, filed July 13, 2006, and July 19, 2006, are denied;
20 3. Plaintiff's November 27, 2006, motions to compel and for sanctions are denied.

21 DATED: February 15, 2007.

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24 EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
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